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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,560	03/30/2004	Jeffrey G. Gibson	011361.00055	6908
28316	7590	09/19/2006	EXAMINER	
BANNER & WITCOFF LTD., ATTORNEYS FOR CLIENT NO. 004954 28 STATE STREET - 28TH FLOOR BOSTON, MA 02109			JOHNSON, VICKY A	
			ART UNIT	PAPER NUMBER
			3682	

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/814,560	GIBSON, JEFFREY G.	
	Examiner	Art Unit	
	Vicky A. Johnson	3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 March 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the mounting member is configured to be secured to a front of dash of a vehicle must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 3682

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 8 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8 it is unclear how the strain gauge can measure the force applied to the pedal, when the strain gauge is attached to the mounting member.

Claim 12 recites the limitation " the force measuring sensor " in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7 and 9-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Kolberg et al (EP0469283).

Kolberg et al teach the use of a drive-by-wire assembly for a motor vehicle comprising, in combination; a pedal (10) configured to undergo no substantial deformation when engaged by a foot of a user; and a strain gauge (15) secured to the pedal and configured to provide an output signal based on a force applied to the pedal by a foot of a user (see Fig 1).

Re claims 2 and 17, the pedal is an accelerator pedal (abstract).

Re claims 3 and 18, the pedal is a brake pedal (well known).

Re claims 4 and 19, the pedal is a clutch pedal (well known).

Re claim 5, the pedal comprises an arm (11) having a first end and a second end, and a footpad (14) secured to the first end, the second end being secured to a mounting member (13).

Re claim 6, the mounting member is configured to be secured to a front of dash of a vehicle (well known).

Re claim 7 the strain gauge is secured to the arm of the pedal (see Fig 1).

Re claim 9, the second end is pivotally secured to the mounting member (see Fig 6).

Re claim 10, a false feedback member (31) connected to the pedal and configured to provide resistance to foot of a user, the strain gauge being secured to the false feedback member (see Fig 6).

Re claim 11, wherein the false feedback member comprises an arm having a first end connected to the pedal and a second end connected to a mounting member to which the pedal is pivotally connected (see Fig 6).

Re claim 12, an electronic control unit (16) configured to receive the output signal.

Re claims 13 and 20, the pedal remains substantially stationary when engaged by a foot of a user (see Fig 1).

Re claims 14 and 21, the pedal moves along a path of travel when engaged by a foot of a user (see Figs 4 and 6).

Re claim 15, a sensor configured to send an electrical output signal based on an amount of travel of the pedal (well known), the sensor and the strain gauge configured to operate independently of each other (inherent).

Re claim 16, a pedal (10) configured to be engaged by a foot of a user; a strain gauge (15) is secured to the pedal and is configured to provide an output signal based on a force applied to the pedal by a foot of a user; and an electronic control unit (16) connected to the strain gauge and configured to receive the output signal and output a control signal.

Re claim 22, a sensor configured to send an electrical output signal based on an amount of travel of the pedal (well known), the sensor and the strain gauge configured to operate independently of each other (inherent).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5,309,361	Drott et al	(displacement sensor)
2005/0217414	Gibson	(pedal)
4,206,636	Hendrix	(strain gauge)
6,408,712	Bolisetty et al	(sensor)
EP1106416	Mendis	(strain gauge)

Art Unit: 3682

SU1525501	Gorokhovskii	(pedal)
JP7-76267	Steiner et al	(pedal)
2004/0147317	Ito	(strain gauge)
2004/0040408	Shaw et al	(strain gauge)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vicky A. Johnson whose telephone number is (571) 272-7106. The examiner can normally be reached on Monday-Friday (7:00a-3:30p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6217. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Vicky A. Johnson
Primary Examiner
Art Unit 3682
9/15/04